

# State of South Dakota

## NINETIETH SESSION LEGISLATIVE ASSEMBLY, 2015

436W0180

### HOUSE BILL NO. 1126

Introduced by: Representatives Willadsen, Anderson, Beal, Deutsch, Harrison, Hawley, Kirschman, May, Novstrup (Al), Rounds, Schoenbeck, Stalzer, Werner, Westra, Wiik, Wollmann, and Zikmund and Senators Lederman, Bradford, Greenfield (Brock), Hagggar (Jenna), Novstrup (David), and Peters

1 FOR AN ACT ENTITLED, An Act to remove the delivery receipt requirements related to  
2 issuing certain life insurance policies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-15-8.2 be amended to read as follows:

5 58-15-8.2. An insurance company or fraternal benefit society shall issue policies in this state  
6 for which an examination period is required in accordance with one of the following methods:

- 7 (1) If the policy is delivered by an insurance producer, a receipt shall be signed by the  
8 policyowner acknowledging delivery of the policy. The receipt shall include the  
9 policy number and the date of the delivery;
- 10 (2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return  
11 receipt requested, or a certificate of mailing shall be obtained showing the date the  
12 policy was mailed to the policyowner. For policy issuances verified by a certificate  
13 of mailing, it is presumed that the policy is received by the policyowner ten days  
14 from the date of mailing;



~~The receipts and the certificates of mailing described in this section shall be retained by the insurer for five years. If a producer obtains the delivery receipt, the producer shall forward the signed delivery receipt to the insurer;~~

(3) If the insurer or insurance producer does not deliver a policy pursuant to this section, in the event of a dispute with the owner of the policy the burden of proof is on the insurer to establish that the policy was delivered.

Notwithstanding the delivery provisions of this section, if the owner of the policy pays the policy premiums the policy is deemed to have been received by the policy owner six months after the date the insurer issues the policy.

Section 2. That § 58-15-59.2 be amended to read as follows:

58-15-59.2. An insurance company or fraternal benefit society shall issue policies in this state for which an examination period is required in accordance with one of the following methods:

(1) If the policy is delivered by an insurance producer, a receipt shall be signed by the policyowner acknowledging delivery of the policy. The receipt shall include the policy number and the date of the delivery;

(2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return receipt requested, or a certificate of mailing shall be obtained showing the date the policy was mailed to the policyowner. For policy issuances verified by a certificate of mailing, it is presumed that the policy is received by the policyowner ten days from the date of mailing;

~~The receipts and the certificates of mailing described in this section shall be retained by the insurer for five years. If a producer obtains the delivery receipt, the producer shall forward the signed delivery receipt to the insurer;~~

(3) If the insurer or insurance producer does not deliver a policy pursuant to this section, in the event of a dispute with the owner of the policy the burden of proof is on the insurer to establish that the policy was delivered.

Notwithstanding the delivery provisions of this section, if the owner of the policy pays the policy premiums the policy is deemed to have been received by the policy owner six months after the date the insurer issues the policy.

Section 3. That § 58-17-11.1 be amended to read as follows:

58-17-11.1. An insurance company, nonprofit hospital service plan, medical service corporation, health maintenance organization, or fraternal benefit society shall issue policies in this state for which an examination period is required in accordance with one of the following methods:

(1) If the policy is delivered by an insurance producer, a receipt shall be signed by the policyowner acknowledging delivery of the policy. The receipt shall include the policy number and the date of the delivery;

(2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return receipt requested, or a certificate of mailing shall be obtained showing the date the policy was mailed to the policyowner. For policy issuances verified by a certificate of mailing, it is presumed that the policy is received by the policyowner ten days from the date of mailing;

~~—The receipts and the certificates of mailing described in this section shall be retained by the insurer for five years. If a producer obtains the delivery receipt, the producer shall forward the signed delivery receipt to the insurer;~~

(3) If the insurer or insurance producer does not deliver a policy pursuant to this section, in the event of a dispute with the owner of the policy the burden of proof is on the

1           insurer to establish that the policy was delivered.

2           Notwithstanding the delivery provisions of this section, if the owner of the policy pays the  
3           policy premiums the policy is deemed to have been received by the policy owner six months  
4           after the date the insurer issues the policy.

5           Section 4. That § 58-28-24.2 be amended to read as follows:

6           58-28-24.2. An insurance company or fraternal benefit society shall issue policies in this  
7           state for which an examination period is required in accordance with one of the following  
8           methods:

9           (1)   If the policy is delivered by an insurance producer, a receipt shall be signed by the  
10           policyowner acknowledging delivery of the policy. The receipt shall include the  
11           policy number and the date of the delivery;

12          (2)   If the policy is delivered by mail, it shall be sent by registered or certified mail, return  
13           receipt requested, or a certificate of mailing shall be obtained showing the date the  
14           policy was mailed to the policyowner. For policy issuances verified by a certificate  
15           of mailing, it is presumed that the policy is received by the policyowner ten days  
16           from the date of mailing;

17          ~~—The receipts and the certificates of mailing described in this section shall be retained by the~~  
18          ~~insurer for five years. If a producer obtains the delivery receipt, the producer shall forward the~~  
19          ~~signed delivery receipt to the insurer;~~

20          (3)   If the insurer or insurance producer does not deliver a policy pursuant to this section,  
21           in the event of a dispute with the owner of the policy the burden of proof is on the  
22           insurer to establish that the policy was delivered.

23          Notwithstanding the delivery provisions of this section, if the owner of the policy pays the  
24          policy premiums the policy is deemed to have been received by the policy owner six months

1 after the date the insurer issues the policy.